

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

WAYNE CLYDE RIVERS, 379750,)
Plaintiff,)
)
v.)) **No. 3:06-CV-1128-D**
)
DET. JONATHAN GRAYBILL, ET AL.,)
Defendants.)

ORDER

The court adopts the October 16, 2006 findings, conclusions, and recommendation of the United States Magistrate Judge. Accordingly,

- (1) plaintiff's claim against defendant David Kunkle for a failure to train or supervise shall proceed and process shall be issued as to this defendant;
- (2) plaintiff's claims against defendants Jonathan Graybill, Kenneth Seguin, and F.H. Smith regarding his vehicle and personal property that remained in the vehicle at the time of its release shall proceed and process shall be issued as to these defendants;
- (3) plaintiff's claims defendant Dallas Police Department are dismissed with prejudice as frivolous;
- (4) plaintiff's claims that defendants unlawfully gave plaintiff's personal property to complainant Elisa Cedillo are dismissed with prejudice until the *Heck v. Humphrey* conditions are met;
- (5) plaintiff's claims against Officer John Doe are dismissed without prejudice;
- (6) the clerk of the court shall terminate the referral to Magistrate Judge Stickney and issue summonses for defendants Kunkle, Smith, Graybill and Seguin;
- (7) the United States Marshals Service shall serve process on defendants Kunkle, Smith,

Graybill and Seguin; and

(8) the clerk shall transmit a true copy of this order to plaintiff.

SO ORDERED.

November 13, 2006.



SIDNEY A. FITZWATER
UNITED STATES DISTRICT JUDGE